

FILED

13 JAN -4 AM 11:32

RECEIVED
CLERK'S OFFICE
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
CLEVELAND

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

UNITED STATES OF AMERICA)	Case No. 06-CV-2441
ex rel. Kenny Loughner)	
)	
)	
Plaintiff,)	Judge Patricia A. Gaughan
v.)	
)	
)	
EMH Regional Medical Center,)	
North Ohio Heart Center, Inc.,)	FILED UNDER SEAL
Dr. Charles O'Shaughnessy and)	
Dr. Naim Farhat)	
)	
Defendants.)	STIPULATION OF <u>DISMISSAL</u>

Pursuant to Rule 41(a) of the Federal Rules of Civil Procedure and the qui tam provisions of the False Claims Act, 31 U.S.C. § 3730(b)(1), and in accordance with the terms and conditions of the December 14, 2012 Settlement Agreement among the United States, Relator Kenny Loughner, and defendants EMH Regional Medical Center (EMH), North Ohio Heart Center, Inc. (NOHC), (the "Settlement Agreement"), the United States and Relator hereby stipulate, through their undersigned counsel, to the entry of an order (1) dismissing with prejudice all claims asserted on behalf of the United States against EMH, NOHC and Drs. O'Shaughnessy and Farhat concerning the Covered Conduct as

defined in Recital Paragraph E of the Settlement Agreement; (2) dismissing with prejudice as to Relator and without prejudice as to the United States all other claims asserted on behalf of the United States; and (3) dismissing with prejudice all claims asserted on behalf of Relator for attorneys' fees under 31 U.S.C. § 3730(d).

Relator, on behalf of himself, his heirs, successors, attorneys, agents, and assigns, stipulates that the Settlement Amount set forth in the Settlement Agreement and the terms and conditions described therein are fair, adequate, and reasonable under all the circumstances, that he will not challenge the settlement pursuant to 31 U.S.C. § 3730(c)(2)(B), and that he expressly waives the opportunity for a hearing on any objection to the settlement under to 31 U.S.C. § 3730(c)(2)(B).

The United States requests that the Complaint, the United States' Notice of Intervention, and this Stipulation of Dismissal be unsealed and that any pleadings filed thereafter in this matter not be sealed absent further order of the Court. The United States further requests that all other papers on file in this action remain under seal because, in discussing the content and extent of the United States' investigation, such papers are provided by law to the Court alone for the sole purpose of evaluating whether the seal and time for making an election to intervene should be extended. A proposed order is attached for the Court's convenience.

Respectfully Submitted,

STUART F. DELERY
Principal Deputy Assistant Attorney General
Civil Division

MICHAEL D. GRANSTON
DANIEL R. ANDERSON
DAVID B. WISEMAN
Attorneys, Civil Division
United States Dept. of Justice
Commercial Litigation Branch
Post Office Box 261
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 514-0132

STEVEN M. DETTELBACH
United States Attorney

By:


KENT W. PENHALLURICK (019131)
STEVEN J. PAFFILAS (0037376)
Assistant United States Attorneys
United States Courthouse
801 West Superior Avenue, Suite 400
Cleveland, OH 44113-1852
Telephone: (216) 622-3682/3698
Fax: (216) 5220424
Kent.Penhallurick@usdoj.gov
Steven.Paffilas@usdoj.gov

Attorneys for the United States

/s Thomas D. Robenalt (per email consent on 1/2/2013 KWP
THOMAS D. ROBENALT (0055960)
Mellino Robenalt LLC
19704 Center Ridge Road
Rocky River, Ohio 44116
Telephone: (440) 333 3800
Fax (440) 333 1452
trobena@mellinorobenalt.com

BRIAN K. BALSER
Brian K. Balser Co. LPA
5311 Meadow Lane Ct.
Elyria, OH 44035
Telephone: (440) 934-0044
brian@balserlaw.com

Attorneys for Relator